

# Aviation Drug/Alcohol Abatement **Update**

**AUGUST 1995**

**NO. 95-2**

## **FAA REVISES PROCEDURES**

In an effort to improve efficiency and reduce paperwork, the Drug Abatement Division has changed the way it handles antidrug plans, plan amendments, and alcohol misuse prevention program (AMPP) certification statements.

- The antidrug plan format now includes the AMPP certification statement.
- Employers are no longer required to describe antidrug program procedures.
- Plan approval letters have been eliminated.
- Plan amendments are only required for a limited number of items.

## **Antidrug Plan Format/AMPP Certification Statement**

The antidrug plan format has been revised to incorporate the AMPP certification statement. New aviation employers or

no longer required to submit a separate antidrug plan and AMPP certification statement. Also, new aviation employers who submit their own plans are not required to describe procedures that demonstrate how the program will meet the regulatory requirements. The new format is essentially a "fill in the blanks" format with employers certifying that specific regulatory requirements will be met.

## **Plan Approval Letters**

The FAA will no longer send the approval letters that previously accompanied stamped signed copies of the antidrug plan. The new plan format includes an area for FAA signature, date of approval and plan identification number. The signed copy of the plan is to serve as FAA approval.

## **Plan Amendments**

The FAA has eased the plan amendment requirements. *It is no longer necessary to submit an amendment for changes in the testing procedures or methodology, collector/collection procedures, MRO responsibilities, and EAP training and education program.*

The following items, however, still require antidrug plan amendments:

- Company name and/or address change.
- Program manager change.
- Change in type of operation (e.g., from part 135 to part 145).
- Increase or decrease in number of covered employees.

## **Inside this Issue:**

Contractor Compliance
Random Alcohol Testing
Prohibited Alcohol-Related Conduct
Comparison of the Antidrug and AMPP Requirements
Role of Consortia/Third Party Administrators
DOT FAX on Demand System
Alcohol Behavior Scenarios

those changing programs (e.g., transferring to another consortium, implementing their own program, etc.) are

- Addition or deletion of company field facilities/divisions.
- Inclusion or deletion of other companies or contractors.
- Medical review officer name and/or address change.
- Change in DHHS-certified laboratory (primary and/or split specimen).
- Single/owner operator who plans to add employees.

### **INAPPROPRIATE LETTER TO CONTRACTORS**

Many U.S. carriers are sending letters to contractors to request documentation to prove the contractors' compliance with FAA substance abuse prevention regulations. Although this is in concept a good idea, in practice several difficulties have arisen. These difficulties have been caused by the U.S. carriers' failure to review their contractor lists to ensure that the letters are sent only to contractors that must establish drug and alcohol testing programs. These letters have been sent to contractors located outside the territory of the United States and to contractors that do not provide safety-sensitive services.

With respect to foreign contractors, the FAA originally intended to include persons located outside the territory of the United States. However, antidrug implementation requirements outside the U.S. were deleted in an August 1994 rule amendment. Similarly, the FAA's alcohol misuse prevention program final rule, published on February 15, 1994, also excludes contractors of U.S. aviation employers who perform safety-sensitive functions solely outside the territory of the United States.

Other contractors, even if located in the United States, that do not perform safety-sensitive functions for a covered employer should not and cannot be required to establish FAA-mandated programs. Manufacturers and suppliers of parts, for example, are not required to have substance abuse prevention programs unless their employees also perform safety-sensitive functions (e.g., maintenance).

Companies are reminded to ensure that they do not inappropriately direct contractors to establish FAA-mandated programs. Should a company want to direct its contractors to institute programs similar to those required by the FAA as a matter of contract, it must be made clear that the basis for the requirement is, in fact, the contract and not Federal regulations.

### **"IMMEDIATELY AVAILABLE?" Random Alcohol Testing Of Covered Employees**

Because consumption of alcohol is generally lawful, the prohibitions on alcohol use and testing requirements in the FAA's alcohol rule are limited to the time when safety is most likely to be adversely affected by alcohol use.

The rule states that covered employees can only be subject to random alcohol tests just before, during, or just after the performance of safety-sensitive functions. The rule also states that "an employee is considered to be performing a safety-sensitive function during any period in which [the employee] is actually performing, ready to perform, or immediately available to perform such functions" (14 CFR part 121, App. J.,

Sec. I). If an employee, therefore, is not actually performing safety-sensitive duties, but is immediately available to perform the specified duties, then he or she would be subject to random testing (and would also be subject to the prohibitions on the use of alcohol).

While it is easy to determine whether an employee is ready to perform or actually performing a safety-sensitive function, determining whether an employee is "immediately available" to perform such a function is more difficult and depends on the operational situation in which the employee is working.

It is the employer's responsibility to determine whether an employee is immediately available to perform safety-sensitive functions. If an employee could be required to (and is expected to be able to) perform safety-sensitive duties any time he or she is at work, then it is reasonable to determine that the employee is immediately available to perform such duties. Similarly, if an employee is not scheduled to perform covered functions, but could be moved to such work at will, then he or she is immediately available to perform safety-sensitive duties. In these instances the employee could be subject to random alcohol testing when he or she is at work and cannot use alcohol.

However, if the employer knows that there will be no covered work available for a specified period of time, or the employee could not be moved to perform covered duties, then the employee could not be considered to be immediately available to perform safety-sensitive functions. Under this circumstance the employee would not be "performing" a safety-sensitive function and therefore

would not be subject to random alcohol testing.

We have also been asked if an employer can agree with its employees that random alcohol testing will only be conducted before, during, or after the actual performance of safety-sensitive functions. The answer is **no**. The definition of "performing" is a matter of Federal regulation, and employees must be subject to the prohibition on alcohol use and to alcohol testing to detect and deter such use during any period that meets this regulatory definition.

### **PROHIBITED ALCOHOL-RELATED CONDUCT AND REPORTING**

Since the implementation of alcohol testing, there has been a number of positive alcohol test results (.04 or greater breath alcohol concentration). Employers must educate their employees and ensure that they are aware of what conduct constitutes a violation (see article titled *Don't Let This Happen to You!*).

The recipients of some of these positive alcohol test results have been identified as pilots who hold part 67 airman medical certificates. Employers are required to notify the Federal Air Surgeon *within 2 working days* of any instance in which a employee who holds an airman medical certificate engages in prohibited alcohol-related conduct. Additionally, copies of the substance abuse professional's (SAP) evaluations must be forwarded to the FAA within 2 working days of receipt by the employer. No covered employee who holds an airman medical certificate shall perform a safety-sensitive function after a

violation unless the Federal Air Surgeon so recommends.

A suggested format for reporting this information is attached to this *UPDATE*. In addition the following must be included:

- Breath Alcohol Testing Form (screening and confirmation test results).
- Documentation supporting determination of on-duty, pre-duty, or post-accident alcohol use violation.

All information should be sent to:  
Federal Air Surgeon  
FAA/Drug Abatement Division  
(AAM-800)  
400 7th Street, SW  
Washington, DC 20590

#### **CONSEQUENCES FOR EMPLOYEES ENGAGING IN PROHIBITED ALCOHOL- RELATED CONDUCT**

Although the immediate consequences for any alcohol rule violation are the same (i.e., removal from safety-sensitive function and required evaluations), there are significant differences between the consequences for refusing to submit to testing and engaging in prohibited alcohol misuse.

A refusal to submit by an airman certificate holder can result in the loss of the certificate--a consequence that might have significantly worse implications for an airman (e.g., mechanic) than a failed

#### **COMPARISON OF THE ANTIDRUG AND ALCOHOL MISUSE PREVENTION PROGRAM REQUIREMENTS**

test. On-duty use of alcohol triggers the permanent bar immediately, whereas other types of alcohol misuse require "2 strikes," and refusals do not count toward the permanent bar at all.

The permanent bar prohibits employees who engage in triggering conduct from ever performing the same safety-sensitive function directly or by contract for any covered employer.

Employers who have employees who have engaged in an alcohol rule violation should check the regulations to ensure that the proper regulatory requirements are followed.

#### **FAA ALCOHOL RULE VIDEO AVAILABLE**

**This plain language explanation of the rule will assist aviation employers and employees in understanding the Federal regulations regarding alcohol misuse and breath alcohol testing. See *Product Announcement attached to this UPDATE.***

Over the next several issues, we will compare the requirements of the antidrug and the alcohol misuse prevention program requirements. We begin in this issue with a comparison of the various types of testing.

This is only intended to serve as a guidance document. It does not substitute for or replace the requirements found in the Code of Federal Regulations. The regulatory requirements have been paraphrased and include FAA policy, which is indicated by *italicized* text.

<u><b>DRUG</b></u>	<u><b>ALCOHOL</b></u>
<b><i>PRE-EMPLOYMENT TESTING</i></b>	
<p>Before an employee performs a safety-sensitive function for the <b>first</b> time for an employer, he/she <u>must</u> undergo a pre-employment drug test for that employer.</p> <p>All applicants for safety-sensitive functions must be informed, at the time of application, of the pre-employment testing requirement and the drugs for which testing will be performed.</p> <p>No individual will perform a safety-sensitive function until the employer receives a verified negative pre-employment test result.</p> <p>An employer <u>may</u> conduct a pre-employment drug test when:</p> <ol style="list-style-type: none"> <li>1. The individual previously performed a covered function for the employer;</li> <li>2. The individual was removed from the employer's random testing pool for reasons other than a verified positive test result on an FAA-mandated test or refusal to submit to such testing; <b>AND</b></li> <li>3. The individual will be returning to the performance of a safety-sensitive function.</li> </ol>	<p>Effective May 10, 1995, the Department of Transportation suspended the pre-employment alcohol testing requirements.</p>
<b><i>PERIODIC TESTING</i></b>	

Each employee who performs a safety-sensitive function and holds a part 67 airman medical certificate shall submit to a periodic drug test.

Tests shall be conducted in conjunction with the first medical evaluation of the employee or an alternative method for collecting periodic test specimens.

Periodic testing may be discontinued after the employer has conducted a full year of random testing.

Not required or authorized by the Alcohol Misuse Prevention Program regulations.

### ***RANDOM TESTING***

Selection must be done using a scientifically valid method, such as a random number table or computer-based number generator.

The dates for administering random tests should be reasonably spread throughout the year. *The FAA recommends at least quarterly.*

Random testing must be unannounced.

*Random testing should be done as soon as possible after employees are notified of selection, but not more than a **maximum** of 2 hours from notification to collection if the employee must travel a distance to the collection site.*

*Employees notified of selection for testing must proceed immediately to the testing site. The time between notification and testing should be no more than the requisite travel time.*

The test must be conducted:

1. **While** the employee is performing safety-sensitive functions;
2. Just **before** the employee is to perform safety-sensitive functions; OR
3. Just **after** the employee has ceased performing safety-sensitive functions.

### ***RANDOM TESTING RATE***

Positive Rate means the number of positive results for random drug tests conducted under the FAA rule plus the number of refusals to take random tests required under the FAA rule, divided by the total number of random drug tests conducted under the FAA rule plus the number of refusals to take random tests required under the FAA rule.

If the aviation industry positive rate is **below 1%** for 2 consecutive years, the annual random testing rate may be lowered to **25%**.

If the aviation industry positive rate in a given year is **equal to or greater than 1%**, the annual random testing rate will be **50%**.

Violation Rate means the number of covered employees found during random tests to have an alcohol concentration of 0.04 or greater plus the number of employees in the aviation industry who refused a required random test, divided by the total reported number of employees in the aviation industry given required random tests plus the total reported number of employees in the aviation industry who refused a required random test.

*NOTE: The violation rate does not include test results between 0.02 and 0.39.*

If the aviation industry violation rate in a given year is **1% or greater**, the annual random testing rate requirement will be increased to **50%**.

If the aviation industry violation rate is **less than 0.5%** for 2 consecutive years, the random testing rate may be lowered to **10%**.

If the aviation industry violation rate is **0.5% or greater but less than 1%**, the random testing rate remains **25%**.

### ***POST-ACCIDENT TESTING***

Accident means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and the time all such persons have disembarked, and in which any person suffers death or serious injury or in which the aircraft receives substantial damage.

Employee's performance must have either contributed to the accident or cannot be discounted as a contributing factor to the accident.

The determination of whether and whom to test must be made by the employer using the best available evidence at the time the determination is made.

The employee shall be tested as soon as possible but not later than 32 hours after the accident.

Testing shall occur as soon as practical following an accident.

- If a post-accident test is not administered within **2 hours** following the occurrence of the accident, the employer must prepare and maintain on file a report stating why the test was not properly administered.
- After **8 hours** have passed, the employer shall cease attempts to administer the test and record why the test was not administered.

A covered employee who is subject to post-accident testing shall remain **readily available** for testing or may be deemed by the employer to have refused to submit to testing.

### ***REASONABLE CAUSE/SUSPICION TESTING***

A covered employee must submit to testing if directed to do so based upon the decision of a supervisor trained in the detection of drug use, who has a reasonable and articulable belief that the covered employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use.

A covered employee must submit to testing if, based on a trained supervisor's specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee it is determined that reasonable suspicion exists that the employee has violated the alcohol misuse prohibitions.

The observations must be made **during**, just **preceding** or just **after** the period of the work day that the covered employee is required to be in compliance with the rule.



In the case of a part 121 certificate holder OR an employer with more than 50 employees who perform safety-sensitive functions at least two of the employee's supervisors, one of whom is trained in detection of the symptoms of possible drug use, shall substantiate and concur in the decision to test an employee.

In the case of an employer other than a part 121 certificate holder who employs 50 or fewer employees who perform safety-sensitive functions, one supervisor who is trained in detection of symptoms of possible drug use shall make the decision to test an employee.

If a test is not administered within **2 hours** following the determination to test, the employer must prepare and maintain on file a record stating why the test was not promptly administered.

After **8 hours** has passed, the employer shall cease attempts to administer the test and record why the test was not administered.

The supervisor who makes the determination that reasonable suspicion exists shall NOT conduct the breath alcohol test on that employee.

Even if an alcohol test cannot be administered, an employee who is under the influence of or impaired by alcohol, as shown by behavioral, speech, or performance indicators of alcohol misuse, shall not report for duty or remain on duty or be permitted to perform safety-sensitive functions until a test can be administered and the result is below 0.02 OR the commencement of the employee's next duty period if at least 8 hours has elapsed.

### ***RETURN TO DUTY TESTING***

An employee who **refused** to submit to or had a **verified positive** drug test result on any type of test other than a pre-employment test must take a return to duty test and obtain a verified negative test result before returning to the performance of a safety-sensitive function.

An employee who has engaged in prohibited conduct, including refusal to submit to testing, must take a return to duty test and obtain a result indicating an alcohol concentration of less than 0.02 before returning to the performance of a safety-sensitive function after a violation.

*An individual who had a verified positive test result on a pre-employment/return to duty test, or refused to take a pre-employment/return to duty test, must take another pre-employment/return to duty test and obtain a verified negative test result before performing a safety-sensitive function.*

### **FOLLOW-UP TESTING**

Testing may continue for up to 60 months.

Testing for both drugs and alcohol may be required if an MRO/SAP determines that such testing is necessary.

Required for any individual who has been returned to duty to perform a safety-sensitive function after receiving a verified positive test result or refusing to submit to a drug test (other than refusing a pre-employment or return to duty test).

An unannounced testing program in which the MRO determines the amount and frequency of testing on a case-by-case basis.

In the case of an individual who has been evaluated by a substance abuse professional and determined to be in need of assistance in resolving problems associated with drug use, follow-up testing shall consist of at least 6 tests in the first 12 months following the employee's return to duty.

Required for any individual who has been identified by a substance abuse professional as needing assistance in resolving a problem with alcohol misuse and who has been returned to duty performing a safety-sensitive function.

An unannounced testing program in which at least 6 tests must be conducted in the first 12 months following the employee's return to duty.

The test must be conducted:

1. **While** the employee is performing safety-sensitive functions;
2. Just **before** the employee is to perform safety-sensitive functions; OR
3. Just **after** the employee has ceased performing safety-sensitive functions.

## **ROLE OF CONSORTIA AND THIRD-PARTY ADMINISTRATORS**

On July 25, 1995, the Department of Transportation (DOT) published a notice in the Federal Register (60 FR 38204) providing guidance on the role of consortia and third-party administrators (C/TPAs) in the DOT drug and alcohol testing programs. It spells out the Department's views and interpretations of the permissible role and obligations of C/TPAs, and applies to all participants in the programs of all the DOT operating administrations. Many of these provisions have mode-specific exceptions, and the FAA will be providing additional guidance as it is finalized.

### **General Role and Functions of C/TPAs**

- ❖ Employers are permitted to use C/TPAs.
  - ❖ Employers must ensure that the C/TPA performs its service in accordance with the applicable rules.
  - ❖ C/TPAs may operate random testing programs and facilitate other functions (e.g., contracting with laboratories or collectors, perform collections)
  - ❖ C/TPAs may combine employees from multiple entities, including employees from more than one industry, in a random pool. However, any C/TPA including aviation employees in combined random pools must be approved by the FAA. (NOTE: Employees not covered by DOT shall not be part of the same random pool with DOT employees.)
  - ❖ C/TPAs may ensure that follow-up testing is conducted in accordance with the established schedule.
- ❖ C/TPAs may act as an agent of the employer - can receive test results without the written consent of the employee.
  - ❖ Limits on use/obligations of C/TPAs as agents:
    - ♦ C/TPAs cannot make reasonable cause/suspicion, post-accident, or refusal determinations.
    - ♦ Employer must ensure that employees who test positive or violate the rules are removed from performance of safety-sensitive functions.
    - ♦ Employer is responsible for compliance.
    - ♦ C/TPAs cannot act as program managers.
    - ♦ C/TPAs must transmit quarterly laboratory statistical summaries to employers.
    - ♦ SAPs may not refer employees to their private practice or to a person/organization from which the SAP receives remuneration or has a financial interest, even if employed by C/TPA.
    - ♦ C/TPAs ensure that laboratories receive only the appropriate copies of the drug custody and control form.

### **Confidentiality, Test Results, Recordkeeping**

- ❖ C/TPAs may receive and maintain all records concerning drug and alcohol

testing programs, including test results. (See related bullet under MRO Issues.)

- ❖ C/TPAs may maintain duplicate records where employers must keep certain information in their files (e.g., for purposes of review during inspections).
- ❖ C/TPAs may maintain information needed for operating a drug/alcohol program and may make random selections and notifications.
- ❖ C/TPAs may receive the employer's copy of the custody and control form, but must forward it to the employer.
- ❖ C/TPAs must follow all confidentiality requirements:
  - ◆ May not release test results without a specific, written consent from the employee.
  - ◆ May not use blanket consent forms.
  - ◆ Must establish confidentiality and security measures to ensure confidential records are not available to unauthorized persons.

#### **Medical Review Officer Issues**

- ❖ Employers may obtain MRO services through C/TPAs.
- ❖ If an MRO is employed/contracted for by a C/TPA, the MRO must perform duties independently and confidentially.
- ❖ Only those C/TPA staff members who are actually under the day-to-day supervision and control of an MRO with respect to MRO functions may perform these functions.

- ❖ Confirmed test results **must** be sent directly from the laboratory to the MRO.
- ❖ MROs must conduct final interviews with employees and make the decision to verify a test result as positive or negative.
- ❖ MROs and BATs must send final individual test results directly to the actual employer as soon as the result is available. *It is not appropriate for the MRO/BAT to send the result only to the C/TPA, which subsequently retransmits them to the employer.*

#### **Enforcement**

- ❖ Employers may not contract away their responsibility to comply with DOT rules.
- ❖ The employer, not the C/TPA, must answer to the DOT for noncompliance with the rules if the C/TPA does not properly carry out the regulatory requirements.

#### **RULEMAKING DOCUMENT PUBLISHED**

##### **Procedures for Transportation Workplace Drug and Alcohol Testing Programs**

OST Docket Number: 95-321;

Notice 95-8

July 25, 1995; 60 Federal Register 38200

Notice of proposed rulemaking.

Comments Due: September 25, 1995.

Summary:

*(1) Proposes to modify the current procedures governing situations in which employees are unable to provide sufficient specimens for urine drug testing;*

- (2) Clarifies requirements concerning relationships between laboratories and MROs;*
- (3) Provides procedures for situations in which employees do not have contact with MROs following a laboratory confirmed positive test; and*
- (4) Makes explicit that MROs are to report split specimen test results to employers, regardless of who pays for the test.*

#### **DOT ESTABLISHED FAX-ON-DEMAND-SYSTEM**

The Office of Drug Enforcement and Program Compliance has created a fax-on-demand system in which information can be sent directly to your facsimile machine or mailed. There is no fee to use this system. Information available includes 49 CFR part 40 drug and alcohol regulations and amendments, Conforming Products Lists, DHHS-certified laboratory list, as well as guidance documents. To request information or receive a catalogue of available documents call (800) 225-3784.

#### **DON'T LET THIS HAPPEN TO YOU!**

With denial so commonly associated with alcohol problems, we've developed these hypothetical, but very possible, scenarios for you to use to help your employees assess their own conduct - and that of their co-workers. These stories remind employees that seemingly harmless behavior can cost them their careers.

\*\*\*\*\*.  
...Jimmy was considered by many people

in the company to be the best sightseeing helicopter operator in the outfit. He was always ready, willing, and eager to take any assignment no matter how short the notice. He had a great future with the company or with any other company he chose.

Last Thursday was his wife's birthday and since it was an extremely slow day at work, Jimmy took off an extra hour at lunch time and took her out to celebrate. They had a wonderful time, and Jimmy ordered her a bottle of her favorite champagne. After all, you only turn 30 years old once in your life. Jimmy, knowing he probably shouldn't, had a little champagne with his wife because he did not have any sightseeing tours scheduled that afternoon.

When Jimmy returned to work after lunch he was told he had been selected for a random alcohol test. Jimmy's confirmation breath alcohol test result was 0.05. Even though Jimmy was not expecting to fly a tour that afternoon, he was immediately available to perform a safety-sensitive function and, therefore, had violated the FAA prohibition of reporting for duty with an alcohol concentration of 0.04 or greater. He was removed from the performance of his safety-sensitive function and would not be allowed to fly sightseeing tours until after he received an evaluation by a substance abuse professional and completed any required rehabilitation and return to duty and follow-up testing - not to mention receiving FAA clearance on his medical certificate. *Don't let this happen to you...*(FYI - Jimmy also violated the prohibition of a crewmember consuming alcohol less than eight hours prior to reporting for duty, but without a credible

witness or admission by Jimmy this violation would go unreported.)

\*\*\*\*\*

...Sam, a flight attendant with a local airline, belongs to a bowling league that meets every Tuesday night. One of Sam's favorite things to do is bowl with his buddies and drink a few beers.

Last Tuesday, the team that Sam and his friends were bowling against bet that they would win the three games that night, and if they didn't win, the beer was on them. Well, Sam's team won hands down and they all adjourned to the local pub to collect on the bet. Sam may have had a few too many beers, but they were having such a good time, and he wasn't driving home so it didn't seem to matter much.

Early the next morning, Sam was scheduled to work the first flight to a nearby city. He wasn't feeling very well because of the beer he had consumed the night before. However, more than the required eight hours had elapsed since his last drink of alcohol so he was sure he was "legal" to work the flight. When he reported for duty, he was informed that he had been selected for a random alcohol test. A short time later, after a screening and a confirmation test, Sam was removed from the performance of his safety-sensitive function because his alcohol concentration was 0.06. He wasn't in the airplane when that early morning flight took off, nor for a long time afterward. *Don't let this happen to you...*

\*\*\*\*\*

...Sally has been repairing aircraft components for a large airline company for the last 10 years. She has always been competent and has never received any disciplinary action. Sally has been drug tested several times in the last four years, and has always had verified negative test results. January 1, 1995, Sally's company began alcohol testing. Since alcohol is a legal substance, Sally felt justified in an occasional drink during the day to relieve stress. She never drank very much at any one time and certainly never thought she was drunk or unable to work.

Late one afternoon Sally was informed of her selection for a random alcohol test. She wasn't really worried because she had only had a few sips of alcohol during the last couple of hours, nothing that would impair her performance. The confirmation breath alcohol test result was 0.08 and she was removed from her job. *Don't let this happen to you...*

## **LABORATORY SUSPENSIONS / WITHDRAWALS**

The following drug testing laboratories have recently been suspended by or have withdrawn from the National Laboratory Certification Program.

If a laboratory withdraws from the certification program, aviation employers must select another DHHS-certified laboratory. A laboratory that is under suspension may still receive specimen shipments, but cannot open or access such specimens, and must send them to a currently certified laboratory for testing.

**Eagle Forensic Laboratory, Inc.**  
950 N. Federal Highway, Suite 308

Pompano Beach, FL 33062  
WITHDREW - June 8, 1995

**ACCU-LAB, Inc.**  
405 Alderson Street  
Schofield, WI 54476  
SUSPENDED - June 14, 1995

To verify the certification status of a laboratory, DHHS has established a telephone HELPLINE -- (800) 843-4971.

#### **QUESTIONS AND ANSWERS**

**Q:** A person has an alcohol screening test result of 0.05. The person refuses to take a confirmation test. Does this screening test result count toward the permanent bar?

**A:** No. In order for a test result to constitute alcohol misuse in violation of

the rule and to count toward the permanent bar, a confirmation test would have to be completed with a result of 0.04 or greater.

However, the situation would be considered a refusal to test, and this is a violation of the rule. The employer must remove the employee from performance of safety-sensitive functions and could not return the employee until he/she has completed any required evaluation, rehabilitation, and testing.

In addition, the employer must report to the FAA any covered employee who refused to submit to a test and holds a part 61, 63, or 65 airman certificate for possible certificate action.

briefly...

#### **THANK YOU!!!!**

Thank you to those of you who took the time to respond to the conference survey in our last newsletter. To date we have received 162 responses, the majority of which requested conferences be held and indicated they would be willing to pay a nominal fee. It is not too late if you haven't submitted your survey; we are still compiling your comments.

#### **UPDATED APPROVAL LETTER REQUESTS**

Recently the Drug Abatement Division has received numerous requests for antidrug plan approval letters, either a duplicate of the original, or a new letter due to a company name and/or address change or new program manager. The Drug Abatement Division does not "re-issue" approval letters, but does, however, acknowledge a company's name change when notified.

#### **ON-DUTY USE OF MEDICATION**

As the result of a National Transportation Safety Board recommendation, the DOT issued the following statement:

*The U.S. Department of Transportation (DOT) reminds all transportation industries of the potential threat to public safety caused by the on-duty use of some over-the-counter and prescription medications by persons performing safety-sensitive duties. As a result, we strongly urge all transportation industry employers to include in their employee training materials appropriate information to address this issue. We also encourage*

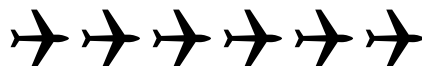
*such medications when required by applicable DOT rules or by company policies.*

#### CHANGE OF ADDRESS

The office to which refusals are reported has changed its address. The new address is:

FAA/Civil Aviation Registry  
Airmen Certification Branch,  
AFS-760  
P.O. Box 25082  
Oklahoma City, OK 73125

*employers to reiterate with their employees the need to report use of*



Published by:  
FAA/Drug Abatement Division (AAM-800)  
400 7th Street, SW  
Washington, DC 20590

*Comments or suggestions should be sent to the above address.*

